

MINUTES OF THE
MEETING OF THE
BOARD OF LAND AND NATURAL RESOURCES

DATE: AUGUST 10, 1990
TIME: 8:30 A.M.
PLACE: SCIENCE BUILDING NO. 11A
MAUI COMMUNITY COLLEGE
310 KAAHUMANU AVENUE
KAHULUI, MAUI

ROLL
CALL

Chairperson William W. Paty called the meeting of the Board of Land and Natural Resources to order at 8:30 a.m. and the following were in attendance:

MEMBERS: Mr. Herbert Apaka
Mr. Herbert Arata
Mr. John Arisumi
Ms. Sharon Himeno
Mr. William W. Paty

STAFF: Mr. Roger Evans
Mr. Henry Sakuda
Mr. Manabu Tagomori
Mr. Michael Buck
Mr. Dean Uchida
Mr. Eddie Ansai
Mr. Alan Tokunaga
Ms. Dorothy Chun

OTHER: Ms. Linnell Nishioka, Deputy Attorney General
Mr. Peter Garcia, Department of Transportation
Mr. Robert Umemura (Item J-14)
Mr. Dave Levenson (Item F-1f)
Mr. Steven Loui (Item H-4)
Mr. Asa Akinaka (Item F-1d)
Mr. Ernie Jackson (Item F-12)
Mr. Glenn Miyao (Item F-3)
Mr. Tom Yeh, Mr. Jerry Merrill (Item F-4)

MINUTES: Mr. Arisumi made a correction to the minutes of May 24, 1990 on page 15, Item C-5. It was noted that Mr. Arisumi seconded the motion, Mr. Arisumi was absent and excused from that meeting. The minutes of May 24, 1990 were approved as to be corrected. (Apaka/Arata)

ADDED UPON MOTION BY MR. ARISUMI AND SECOND BY MR. APAKA, THE FOLLOWING
ITEMS: WERE ADDED TO THE AGENDA:

E-3 Filling of Hawaiian Burial Sites Positions
H-7 Out-of-State Travel Request for Leroy Taira, Auditor,
Administrative Services Office

Items on the agenda were considered in the following order to accommodate those applicants and interested parties present at the meeting.

ITEM J-14 CONSENT TO ASSIGNMENT OF LEASE NO. DOT-A-80-6, HONOLULU INTERNATIONAL AIRPORT, SOUTH RAMP, OAHU (HEMMETER AVIATION A DIVISION OF HEMMETER INVESTMENT COMPANY - HEMMETER AVIATION, INC.)

Ms. Himeno asked to be excused from participating on Items J-14 and J-15 because of a conflict of interest.

ACTION Approved as submitted. (Arata/Apaka)

ITEM J-15 CONSENT TO ASSIGNMENT OF LEASE NO. DOT-A-82-5, HONOLULU INTERNATIONAL AIRPORT, SOUTH RAMP, OAHU (HEMMETER AVIATION A DIVISION OF HEMMETER INVESTMENT COMPANY--HEMMETER AVIATION, INC.)

(Ms. Himeno excused. See Item J-14).

ACTION Approved as submitted. (Arisumi/Apaka)

ITEM J-4 APPLICATION FOR ISSUANCE OF REVOCABLE PERMITS 4666, 4674 AND 4681, AIRPORTS DIVISION

ACTION Approved as submitted. (Arisumi/Apaka)

ITEM J-5 RENEWAL OF REVOCABLE PERMITS 4191, ETC., AIRPORTS DIVISION

ACTION Approved as submitted. (Arisumi/Apaka)

ITEM J-6 RENEWAL OF REVOCABLE PERMITS 4332, ETC., AIRPORTS DIVISION

ACTION Approved as submitted. (Apaka/Arata)

ITEM J-8 ISSUANCE OF CONSTRUCTION RIGHT-OF-ENTRY AND NEGOTIATED LEASE, KAWAIHAE HARBOR, HAWAII (MATSON NAVIGATON COMPANY, INC.)

ACTION Approved as submitted. (Apaka/Arisumi)

ITEM J-9 AMENDMENT TO ISSUANCE OF LEASE BY DIRECT NEGOTIATION, FORT ARMSTRONG, HONOLULU HARBOR, OAHU (AMERICAN PRESIDENT LINES, LTD.)

ACTION Approved as submitted. (Arisumi/Apaka)

Item F-1f ISSUANCE OF REVOCABLE PERMIT TO DAVID A . LEVENSON, PORTION OF KAWAIHAE LST, SO. KOHALA, HAWAII, TAX MAP KEY 6-1-03:POR.10

Mr. Dean Uchida made the presentation of Item F-1f the request for a revocable permit to David A. Levenson for parking purposes at Kawaihae, South Kohala. The area is adjacent to Kawaihae Harbor and the reason staff is asking for this under a revocable permit is because the Department of Transportation Harbors Division has indicated that the parcel in question is within their 2010 Master Plan for developing Kawaihae Harbor.

Mr. Uchida said that the area will be used for public parking also.

MOTION Mr. Arata moved for approval as submitted, seconded by Mr. Arisumi.

DISCUSSION Mr. Arisumi questioned the amount of \$5.00 for the monthly rent.

Mr. Uchida said he was not aware of how staff came to that amount.

Mr. David Levenson was present and said that he was the owner of the adjacent shopping center. He said he did not know the amount of the proposed rent on the parking stalls.

Mr. Uchida informed him that it would be \$110.00 per month, 22 stalls at \$5.00 each.

Mr. Uchida said there were no requirements for improvements.

Mr. Levenson said being it was open to the public, he would ask for the lowest possible rent.

Mr. Uchida suggested deferring action for staff to look into this.

Mr. Levenson said he has been waiting for permission for two years and would rather pay the higher price then have the item deferred. He then asked if he could get a longer lease instead of the month to month revocable permit as he would need about \$10,000 to gravel the parking area.

Chairman Paty explained that there would be a problem as the Department of Transportation has indicated objections to a long-term lease.

ACTION Approved as submitted. (Arata/Arisumi)

ITEM B-1 ADOPTION OF ADMINISTRATIVE RULES--NEW CHAPTER 13-56, KAUNAKAKAI, MOLOKAI

Mr. Henry Sakuda explained that the State Department of Transportation for a number of years has encountered problems with fishermen, fishing in the harbor in Molokai. He then explained the proposals and presented exhibits to the Board.

Mr. Sakuda went into detail on the final revised draft of the new chapter of Hawaii Administrative Rules, Chapter 13-56, Kaunakakai Harbor, Molokai. He said the proposed Chapter 13-56, Kaunakakai Harbor, Molokai submitted for adoption would:

1. subdivide the commercial harbor along the long axis of the shipping channel,
 - a. allow "netting" (fishing with large nets) in the portion of the channel in ("Area 1A"), with restrictions--
 - (1) only with a special permit from the Board of Land and Natural Resources,
 - (2) only with clearance before each set from the local harbor authority (to prevent interference with vessel traffic),
 - (3) only during daylight hours, and
 - (4) only to allow the net to be in the water to capture and take one load of fish, and
 - b. prohibit use of any nets but thrownets in the part of the channel alongside the pier ("Area 1B"); and
2. reserve the small craft basin ("Area 2") for angling (fishing with poles and lines), and handheld "scoop" nets (used to catch opai for bait or to land fish caught on hooks).

After his presentation, Mr. Sakuda answered questions of the Board.

ACTION

Unanimously approved as submitted. (Arisumi/Himeno)

ITEM H-4

CDUA FOR AN AFTER-THE-FACT COMMERCIAL MOORING; KEALAKEKUA BAY, SOUTH KONA, HAWAII; APPLICANT: HAWAIIAN CRUISES, LTD. (MR. JOHN R. PYLES)

Mr. Evans passed out photos of the area to members of the Board and proceeded to go over the submittal. He continued to explain in great detail the difference of the subzones 'A', 'B' and 'C'.

Ms. Himeno asked if there were transcripts of the public hearing that were available for her to review other than what was in the board packet. She felt that she would like to read the transcript itself before trying to make judgement.

Mr. Evans said there would be another meeting before the expiration of the 180 days and that would give her time.

Chairman Paty called for questions from the board, although a decision might not be done today, questions could be asked of the applicant that was present today.

MOTION

Mr. Arata felt that Ms. Himeno's request was valid and he would request that Items H-2, H-3 and H-4 be deferred to the Kona meeting. He also suggested a field trip for the board members.

Mr. Evans asked for any other direction of the Board.

Chairperson Paty said before acting upon the motion, perhaps the Board should get the reaction of the applicants to the submittal before deferring to see where they're coming from. Chairperson Paty then called upon the applicant present if he wished to comment.

Mr. Steven Loui, President of Pacific Marine Corporation and President of Hawaiian Cruises said that present with him was Susan Matsuura. He said that the subzones were confusing. He talked of the moorings being placed in the sand and previous moorings in the coral. He said that they feel Hawaiian Cruises has a 37 year record of being there, an unblemished record. He told the Board that Pacific Marine is a parent company for about 14 small subsidiaries. One of their subsidiaries is the only EPA certified facility in the State. They have operations on all the islands and Guam in the Pacific. They are also the State's only hazardous waste contractor when spills occur. They are trying to continue to do their job right. They help in cleaning the environment when called upon. They are the only locally owned contractor approved to do major Federal and State projects. They remove asbestos from schools, hotels, etc. They are also involved in the Honolulu shipyard. They maintain boats in strict Coast Guard standards and Department of Health rules.

When they decided to get into this business, they felt they would like to be a good corporate citizen and cooperate with the community.

He said that Pacific Marine is a family business and trying to do it right. They would like to know in September if they're going to be running this or not.

ACTION

Chairman Paty said there was a motion on the floor to defer Items H-2, H-3 and H-4, is there a second? Ms. Himeno seconded the motion and motion carried.

Item F-1d

ASSIGNMENT OF SUBLEASE ON GENERAL LEASE NO. S-3709 FROM ASSOCIATES FOUR, ASSIGNOR TO ATTRACTIONS HAWAII, A HAWAII GENERAL PARTNERSHIP, ASSIGNEE AT SEA LIFE PARK, WAIMANALO, OAHU, TAX MAP KEY 4-1-14:4 AND 13

Mr. Uchida explained the request of Associates Four regarding the assignment of the sublease as shown in the submittal.

Ms. Himeno questioned whether the reorganization will provide benefits. Will there be any downside to the State in consenting to allowing this transfer from a partnership to a cooperation of general partners.

Mr. Uchida replied that from their standpoint they don't think there is. From staff assessment, they have allowed this type of assignment to occur in the past.

Mr. Asa Akinaka said he was the attorney who prepared this reorganization. He explained that this is not an assignment of the general lease. The Oceanic Institute, which is the lessee of the State, that whole lease is at risk, including interest of the Oceanic Institute in the event there is any default. One thing he mentioned was that Associates Four thus far and Attractions Hawaii in the future will have the right to pay rents otherwise payable by Oceanic Institute, but other than that he really didn't think there was much of a risk because a non-payment of rent or violation of covenants, whether the covenants are under the sublease or under the general lease means all are at risk.

ACTION

Unanimously approved as submitted. (Arisumi/Himeno)

RESUBMITTAL--CANCELLATION OF REVOCABLE PERMIT NO. S-6405 TO OAHU INTERIORS, INC., ET AL AT SAND ISLAND, HONOLULU, OAHU, TAX MAP KEY 2-5-03:POR.69

ITEM F-12

Mr. Uchida informed the board that Mr. Jackson had asked for a deferral at the last meeting because he was going to be off island at that time.

Mr. Uchida then went over the submittal with the Board listing the companies owned by Mr. Jackson and the violations discovered by staff during site inspections. He also explained how staff has attempted to work with the permittee to bring them into compliance with the permit. The permittee's continued action to allow other businesses to use the subject area instead of trying to correct the situation leaves staff no alternative but to recommend cancellation of the subject permit.

Mr. Jackson has been in touch with staff and he informed staff that both Westpac and Walsh and Associates have been removed from the premises. Mr. Uchida checked the premises yesterday and they are in fact gone.

Staff is still recommending that the Board cancel the permit. It has been the past practice to give everyone one chance, issue a warning and let them know that if they are caught in the future it will leave staff with no alternative.

Mr. Arisumi then asked for clarification of the violations to which Mr. Uchida responded.

Responding to Mr. Apaka's question, Mr. Uchida said Mr. Jackson has held the revocable permit since 1978. The first violation occurred during the early part of this year and the last two in July 1990 and prior to 1990 there was no record of any violation.

Attorney for Mr. Jackson said his client was here to answer questions of the Board, specifically the questions asked by Mr. Arisumi. He said that Mr. Jackson has been on Sand Island since 1968. Originally

he was with Matson Terminal area and relocated. He runs several companies out of that area. Regarding the warehousing of West Pac and Kailua Express, he said Mr. Jackson will explain and apologize for any misunderstanding. He said the problems here today are not intentional ones and his client is sincerely sorry it happened. He continued to say how the business has grown and how reputable it was.

Mr. Arisumi asked Mr. Uchida when was the last violation, prior to the latest.

Mr. Uchida said it was in the early part of 1990 and Mr. Jackson corrected it. Then in July 1990, staff found another violation after having been given a warning.

Mr. Jackson then explained to the Board how he had first located his business on Sand Island in 1968 and in 1978 to his present location. He explained that he believed that his permit allowed as one of the permitted uses of warehousing and that was the situation with West Pac.

In January of 1990, it was brought to his attention the violation of the Kailua Express, a business owned and operated by an elderly lady. She had two to three trucks and she had no place to operate. He claims there was trading of services between his company doing hauling services.

Ms. Himeno asked if he had a business agreement with this lady and Mr. Jackson answered, "No."

He then explained how about two years ago he considered into going in the type of business that Walsh and Associates, a supplier of some of the top brands of water proofing products that is used in the State came about trying to make it one of his businesses. He started to negotiate with Mr. Walsh to purchase his company and he assumed that he could include that and started warehousing his water proofing materials before he even bought his company. Negotiations fell through but meanwhile Mr. Walsh was operating and he erred by leaving him there and it got further out of hand.

Ms. Himeno asked if he charged him a fee for being on the premises. Mr. Jackson replied that they charged him a warehousing fee initially for warehousing his materials.

Ms. Himeno also clarified that he charged him a fee from the day he moved in and up until the time that Mr. Uchida informed him that he's had to move out of there.

He again apologized to the Board and assured the Board that something like this will not happen again. He said this would be very devastating to his business and he could not walk away from one and one/half million dollars worth of improvements.

More discussion followed with Mr. Jackson answering questions of the Board in relation to the various businesses he owned and the types of products, his knowledge of the provisions listed in his permit and amounts of improvements made.

Mr. Jackson again apologized and said this will not happen again.

Chairperson Paty referred to Mr. Jackson's counsel's comment that a 'message has been sent', but that the fact remains that the Board is concerned about this sort of thing. The Board feels that this was handled very casually when it first came about and that Mr. Jackson didn't take it very seriously then. It shouldn't be where a permittee with large holdings and also a member of the board of SIBA to come before the Board and say it will never happen again and be given a slap on the hand. Whereas should you be a smaller company with a violation and our staff will have to go after you.

Chairperson Paty mentioned that people would be looking to you (Mr. Jackson) in setting an example. Looking at the situation, he felt that the Board should consider the basis for some sort of a fine and indications that they are not at all pleased with this kind of thing. He said that he would like to recommend that the Board defer action on this pending a review to determine whether or not an appropriate fine is in order.

Mr. Arisumi commented that his basic concern in this issue is that there are some 300 employees that are involved. He wholeheartedly agrees with the chairman that there should be further review.

ACTION Mr. Arisumi moved to defer this item to the August 24th meeting, seconded by Mr. Himeno, motion carried.

RECESS 10:15 am --10:30 am

ITEM F-3 COUNTY OF HAWAII REQUESTS SET ASIDE OF GOVERNMENT LAND AT HILO TOWN, SO. HILO, HAWAII FOR PARK AND RECREATION PURPOSES, TAX MAP KEYS 2-2-4:2 AND 2-2-06:1

Mr. Uchida said staff would like to add an amendment to the submittal, a condition as C-6 under Recommendation. To read that, "Reserving unto the DLNR Division of State Parks, a 40 foot right-of-way, over and across a portion of Tax Map Keys 2-2-4:2 further identified as former Kumu Street." This item is for a set aside to the County of Hawaii for park and recreation purposes in Hilo. The area is presently under Executive Order to the Division of State Parks.

Mr. Arata commented that this request was being made by the County of Hawaii through its then Mayor, the late Bernard K. Akana. He asked if it had the concurrence of the present mayor.

Mr. Glenn Miyao of the County of Hawaii, Parks and Recreation Department said that this request came from the present mayor in office. Answering questions of the Board he said that their plan was to get in two regulation soccer fields and possibly four mini fields.

ACTION Unanimously approved as amended. (Arata/Apaka)

ITEM B-1 ADOPTION OF ADMINISTRATIVE RULES--NEW CHAPTER 13-56, KAUNAKAKAI, MOLOKAI

See page 3 for action.

ITEM C-1 OUT-OF-STATE TRAVEL REQUEST TO ATTEND THE 17TH ANNUAL NATURAL AREAS CONFERENCE

ACTION Unanimously approved as submitted. (Arisumi/Himeno)

ITEM C-2 FILLING OF EQUIPMENT OPERATOR III, POSITION NO. 02938, ISLAND OF MOLOKAI

ACTION The Board unanimously approved the appointment of Mr. Antone Ledesma to fill Position No. 02938, Equipment Operator III, island of Molokai. (Arisumi/Himeno)

ITEM D-1 APPROVAL FOR AWARD OF CONTRACT-JOB NO. 9-OF-J, HAKIPUU STREAM FLOOD CONTROL IMPROVEMENTS, HAKIPUU, OAHU, HAWAII

ACTION Unanimously approved as submitted. (Himeno/Arisumi)

ITEM D-2 AWARD OF CONSTRUCTION CONTRACT, VARIOUS FORESTRY AND WILDLIFE PROJECTS STATEWIDE

ACTION Unanimously approved as submitted. (Apaka/Arata)

ITEM D-3 AWARD OF CONSTRUCTION CONTRACTS, VARIOUS STATE PARKS PROJECTS PROJECTS STATEWIDE

ACTION Unanimously approved as submitted. (Arata/Apaka)

ITEM F-4 STAFF RECOMMENDATION FOR SALE OF A LEASE AT PUBLIC AUCTION COVERING GOVERNMENT LAND OF PIIHONUA, SO. HILO, HAWAII, TAX MAP KEYS 2-3-31:POR. 1 AND 2-3-32:POR. 1

Mr. Uchida made the presentation of Item F-4 going over the details and conditions in the submittal.

Answering questions of Mr. Arisumi, Mr. Uchida said both applicants expressed use for the area for a long-term care nursing facility and there was a difference in the number of beds.

One of the applicants, Hawaii Medical Investors Limited Partnership (HMI) is willing to get the necessary permits and approvals to expedite the public auction. However, in the event that HMI is not the successful bidder, they ask if the costs incurred could be reimbursed to HMI. Mr. Uchida said that the State could not guarantee reimbursement of these costs should they not be the successful bidder.

MOTION

Mr. Arisumi moved for approval, seconded by Mr. Apaka.

DISCUSSION

Present were Mr. Tom Yeh, representing the applicant, and Jerry Merrill, technical consultant for HMI Ltd. Mr. Yeh went over their primary concerns and tried to answer the questions of the board. He said that there was a letter from an administrator of the Hilo Hospital which outlines the situation that presently exists. One of the reasons for trying to expedite the facility is that the Hilo Hospital patients in emergency cannot be moved to the intensive care unit beds because many patients should be in nursing homes.

The property is zoned for residential use and they would need a permit from the County of Hawaii. One of the problems is they won't know until the sealed bids for the lease are opened. They would like to state, if they are the successful bidder or unsuccessful bidder, that they would be reimbursed.

Mr. Uchida answered that this is not a negotiated lease. Assuming they get the Board's approval, during the preparation of the lease document by the Attorney General's office, at that time some of the concerns that Mr. Yeh spoke about timing, getting the necessary permits and approvals required, it could be discussed with the A.G.'s office and staff could return to the Board and modify some of the conditions in the lease.

Mr. Apaka said his only concern at this time was the 3.5 million dollars minimum improvement requirement.

Mr. Uchida said that staff could come back to the Board with answers to the 3.5 million dollars requirement.

Mr. Merrill said that this is a good company to work with and the only application on file now to build this facility is by HMI, Ltd. He mentioned that two years ago there was a need for something like this.

Mr. Apaka said that there seems to be no problem except for the 3.5 million dollars. He said he would prefer to defer this item to the next meeting. He also mentioned that he thought the area would need to be rezoned from residential to commercial.

Mr. Uchida said if the State Health agency won't issue the Certificate of Need until the person applying has control of the property, it could be made a requirement of the lease. He said that staff will try to get some answers on the minimum requirement for improvements.

Mr. Arisumi withdrew his motion.

DEFER

Mr. Arata moved to defer this item; seconded by Mr. Apaka and motion carried.

ITEM E-1

REQUEST FROM SAINT MICHAEL'S FOOD BANK OF HAWAII FOR A BENEFIT FOR THE HOMELESS AT THE OLD KONA AIRPORT STATE PARK, HAWAII

Mr. Nagata presented the request and commented that this event was held there last year and there were no problems. Because the activity and the area needs as requested would be in direct conflict with the recreational needs of the park users during the busy Labor Day weekend, staff is recommending the Board deny the applicant's request.

Mr. Arata commented that motorcycle riders will be there too. He said that he would like to approve the request for the applicant being that this is a worthy cause. Since they're running, they should be controlled to run in certain areas because of the softball games and motorcycle riders.

MOTION

Mr. Arata entertained a motion to approve the applicant's request stating that he felt it was a worthwhile event.

Mr. Nagata commented if the Board approves and allows this request,

staff would have to issue sufficient conditions to control the event.

Chairperson Paty addressed Mr. Nagata that the Board was looking to him for his expertise in working out the details.

ACTION

Mr. Arisumi seconded the motion and motion carried.

ITEM E-2

DUTY STATUS FOR OUT-OF-STATE TRAVEL TO THE ANNUAL MEETING OF THE NATIONAL CONFERENCE OF DEFERRED COMPENSATION PLAN ADMINISTRATORS

ACTION

Unanimously approved as submitted. (Himeno/Arata)

ADDED

ITEM E-3

FILLING OF HAWAIIAN BURIAL SITES POSITIONS

ACTION

The Board unanimously approved the appointment of Mr. Edward Ayau and Ms. Lucia Lau to fill the Temporary Hire Historic Sites Specialist II and III positions assigned to the State Historic Preservation Division. (Himeno/Apaka)

ITEM F-1

DOCUMENTS FOR BOARD CONSIDERATION

Item F-1a

DEPARTMENT OF AGRICULTURE CONTRACT PERMIT NO. DOA-1 TO MAUI PRODUCE PROCESSING COOPERATIVE, LTD., VACUUM COOLER PLANT AND AGRICULTURAL PROCESSING AND MARKETING FACILITY, OMAOPIO, MAKAWAO (KULA), MAUI, TAX MAP KEY 2-3-03:23

Mr. Arisumi had questions on who were going to be allowed to use the premises. His concerns were the people that were not in the cooperative.

Mr. Uchida said it was his understanding that only people in the cooperative would be allowed.

Mr. Arisumi requested that staff check on this matter and also clarify the amount of fees that were going to be charged for the use of the facility and inform the Board.

Item F-1b

ASSIGNMENT OF GENERAL LEASE NO. S-4910 FROM ALICE M. SANTANA, WIDOW, ASSIGNOR TO ALICE M. SANTANA AND GEORGIANA L. SANTANA, MOTHER AND DAUGHTER, ASSIGNEES AS JOINT TENANTS, MAUNALAHA HOMESITES LOTS, OAHU, TAX MAP KEY 2-5-19:27

Item F-1c

DEPARTMENT OF HUMAN SERVICES, PUBLIC WELFARE DIVISION (LESSEE), GRANT OF SEWER EASEMENT FROM MELVILLE AND BLAKE (LESSOR/GRANTOR) TO CITY AND COUNTY OF HONOLULU (GRANTEE) AT WAIANA, OAHU, TAX MAP KEY 8-5-12:2

Item F-1d

ASSIGNMENT OF SUBLEASE ON GENERAL LEASE NO. S-3709 FROM ASSOCIATES FOUR, ASSIGNOR TO ATTRACTIONS HAWAII, A HAWAII GENERAL PARTNERSHIP, ASSIGNEE AT SEA LIFE PARK, WAIMANALO, OAHU, TAX MAP KEY 4-1-14:4 AND 13

See page 4 for action.

Item F-1e

ASSIGNMENT OF GRANT OF EASEMENT (L.O.D. NO. S-27, 750), PUUWAAWAA, NORTH KONA, HAWAII, TAX MAP KEY 7-1-02:PORTIONS 1 AND 8

Item F-1f

ISSUANCE OF REVOCABLE PERMIT TO DAVID A. LEVENSON, PORTION OF KAWAIHAE LST, SO. KOHALA, HAWAII, TAX MAP KEY 6-1-03:POR. 10

See page 2 for action.

Item F-1g

ASSIGNMENT OF GENERAL LEASE NO. S-3170, LOT 37, OCEAN VIEW LEASE LOTS, WAIAKEA, SO. HILO, HAWAII, TAX MAP KEY 2-1-07:36

ACTION

Mr. Arisumi moved for approval of Items F-1a, F-1b, F-1c, F-1e and F-1g. Seconded by Mr. Apaka, motion carried.

ITEM F-2

AMENDMENT TO PRIOR BOARD ACTION OF JULY 25, 1986 (AGENDA ITEM F-2) COVERING DIRECT SALE OF ROADWAY REMNANT, PONAHAHAWAII AND KAUMANA, SO. HILO, HAWAII, TAX MAP KEY 2-5-06

ACTION

Unanimously approved as submitted. (Arata/Himeno)

ITEM F-3 COUNTY OF HAWAII REQUESTS SET ASIDE OF GOVERNMENT LAND AT HILO TOWN, SO. HILO HAWAII FOR PARK AND RECREATION PURPOSES, TAX MAP KEYS 2-2-04:2 AND 2-2-06:1

See page 6 for action.

ITEM F-4 STAFF RECOMMENDATION FOR SALE OF A LEASE AT PUBLIC AUCTION COVERING GOVERNMENT LAND OF PIIHONUA, SO. HILO, HAWAII, TAX MAP KEYS 2-3-31:POR. 1 AND 2-3-32:POR. 1

See page 7 for action.

ITEM F-5 COUNTY OF MAUI REQUESTS DRAINAGE EASEMENT AND CONSTRUCTION RIGHT-OF-ENTRY AT FORMER KAUPAKULUA SCHOOL LOT, WEST KAUPAKULUA, MAKAWAO (HAMAKUALOA), MAUI, TAX MAP KEY 2-7-15:26

ACTION Unanimously approved as submitted. (Arisumi/Himeno)

ITEM F-6 DIRECT SALE OF A NON-EXCLUSIVE TERM EASEMENT FOR REPAIR AND MAINTENANCE OF AN EXISTING SEAWALL AT WAIHOLI-KEOKEA HOMESTEADS AND BEACH LOTS, MAUI, TAX MAP KEY 3-9-11:9

Mr. Uchida said that staff would like to amend Items F-6 and F-7. The submittal request is for a direct sale of a non-exclusive term easement and staff would like to amend it to "Authorize it as a direct sale of a perpetual non-exclusive easement."

Mr. Uchida said that these two items were related. They both are for an existing seawall at Waiohuli-Keokea Homesteads. As part of their recent adoption of the shoreline rules and regulations covering certification of shorelines, when these applicants came in for certification, staff found that the wall was in violation. Part of the wall was built on State land and thus staff is recommending that the Board assess a fine for illegal construction of the wall on State land without authorization and also authorize a direct sale of a perpetual non-exclusive easement to the applicants covering the portion of the wall that is within the State lands.

ACTION Mr. Arisumi moved for approval of Items F-6 and F-7 as amended. Seconded by Mr. Apaka, motion carried.

ITEM F-7 DIRECT SALE OF A NON-EXCLUSIVE TERM EASEMENT FOR REPAIR AND MAINTENANCE OF AN EXISTING SEAWALL AT WAIHOLI-KEOKEA HOMESTEADS AND BEACH LOTS, MAUI, TAX MAP KEY 3-9-11:7 & 8

See above Item F-6 for action.

ITEM F-8 STAFF RECOMMENDATION TO RESCIND PRIOR BOARD ACTION OF JUNE 9, 1988 (AGENDA ITEM F-4) AND AUTHORIZE CONVEYANCE IN FEE OF STATE LAND AT HONOKAWAI, LAHAINA, MAUI TO HOUSING FINANCE AND DEVELOPMENT CORPORATION FOR DEVELOPMENT OF AFFORDABLE RENTAL HOUSING PROJECT, TAX MAP KEYS 4-4-01 AND 4-4-02

Mr. Uchida presented Item F-8, staff's recommendation to rescind prior Board action of June 9, 1988. Mr. Uchida explained that during the preparation of the documents and the covenants in the General Lease Documents, Housing Finance and Development Corporation (HFDC) found that it couldn't get bond financing with the way the lease was structured. So staff is asking the Board to rescind the action of the issuance of the lease and authorize the conveyance of the fee simple interest in the land to HFDC for the development of the affordable rental housing project.

Mr. Arisumi asked if this was a normal practice.

Mr. Uchida explained the different circumstances, on what type of leases were involved, and depending on whether rental units were involved. It also depends on how HFDC is getting financing for these projects. This is also part of the follow-up on the Memorandum of Understanding that the department has with HFDC on turning over State lands for development of affordable housing. On the question of ceded lands, staff is taking that as a separate issue and referring it to the Attorney General's Office in reference to the MOU.

Mr. Arisumi voiced concern over the high rent being charged by HFDC when it should be affordable. He could not understand why the charges were so high when the lease rent from DLNR was only \$1.00 per annum.

ACTION Moved for approval by Mr. Arisumi; seconded by Ms. Himeno, motion carried.

ITEM F-9 SET ASIDE OF STATE LANDS TO DEPARTMENT OF TRANSPORTATION FOR THE KAMEHAMEHA HIGHWAY REALIGNMENT FROM HELEMANO/ WAIALUA JUNCTION TO HALEIWA BEACH PARK (HALEIWA BYPASS) AT HALEIWA, OAHU, TAX MAP KEY 6-2-12:8, 6 (POR.) AND 14 (POR.)

Chairperson Paty asked to be excused from acting on this item.

ACTION Approved as submitted. (Himeno/Apaka)

ITEM F-10 HAWAIIAN ELECTRIC COMPANY, INC. REQUEST FOR PERPETUAL NON- EXCLUSIVE EASEMENT FOR STEEL POLE/FOUNDATION ANCHOR AND OVERHEAD TRANSMISSION LINE, ON, OVER, UNDER AND ACROSS THE ALOHA STADIUM COMPLEX, HALAWA, OAHU, TAX MAP KEY 9-9-03:61 AND 71

ACTION Unanimously approved as submitted. (Himeno/Apaka)

ITEM F-11 RESUBMITTAL--DEAN A. GELEYNSE REQUEST NON-EXCLUSIVE EASEMENT FOR MAINTENANCE OF RESIDENCE PURPOSES, MAKIKI, OAHU, TAX MAP KEY 2-5-03:POR. 69

Mr. Uchida recalled for the Board that this matter was deferred at the last Oahu meeting to allow staff to check on the consistency of how the Board had handled prior violations. These violations were not limited to encroachment on State lands but also on conservation lands. Because of the magnitude of such a study, staff has not been able to complete the study in the time frame given. Preliminary review of past actions from the Board has been that we impose fines on people who are in the position of benefitting from the violations.

Staff would like to amend this submittal in recommending a \$500.00 fine for encroachment be imposed on the applicant for a non-exclusive easement similar to an encroachment that occurred in Items F-6 and F-7.

Chairperson recognized that a person purchases a piece of property and notices that something is not right. That person goes to the State to correct the situation and is fined for the violation of the previous owner.

Mr. Arisumi said that he had brought up that question at the last meeting citing previous cases on Oahu and Lahaina. In Lahaina there were about six people who had their restaurants or businesses built over the ocean and all of them were slapped a fine although they were not the original owners. Based on that he questioned why this applicant was not being fined also. He said he understood where the Chairperson was coming from.

Mr. Uchida said their preliminary review indicated, yes, we were imposing fines regardless of who was the actual builder of the violation. Only recently as a part of the Shoreline Certification procedures and much discussion with the Attorney General's office, they were informed unless staff has strong proof that the person being imposed the fine actually did the work, they would be hard pressed in a court of law to prove that we could levy a fine. He realizes that the Board in the past had acted on recommendations of staff and only in the in last year they found out there would be a problem of proof.

He said that staff is now trying to inform the Board that they are trying to correct the policy or practice regarding the fines of violations.

Chairperson Paty approached counsel present for an opinion.

Counsel Nishioka said the problem that they're talking about the shoreline certification would also apply here. Their office has been looking at whether this kind of action would be enforceable against a subsequent owner that had no responsibility for actual constructing what is the violation. She thought that their advice was that they see a problem of enforceability in court and if the Board decides to

levy it then it's their prerogative. In terms when it's turned over to the A.G.'s office there might be a problem.

Mr. Apaka asked if the Board could ask the applicant to remove the portion that was over State land.

Mr. Uchida attempted to answer that question. Looking at the seawall problem, that was one of the questions asked, what if the person says he didn't build the wall, he doesn't want it, it's built on your land and you (the State) take it out. Staff asked the A.G. if there were any leverage whereby they could force a property owner who was benefitting from the wall being there, to take out the wall. The current law doesn't say we can. There may be a need to change the law but it may be a long term thing.

Mr. Arisumi said that he would not mind retracting the fine but at the same time he feels that the department should really work with the A. G.'s office on procedures and practices for the community for after-the-fact cases.

ACTION Mr. Arisumi moved to approve Item F-11 not as amended this morning, but as submitted. Seconded by Ms. Himeno, motion carried.

ITEM F-12 RESUBMITTAL--CANCELLATION OF REVOCABLE PERMIT NO. S-6405 TO OAHU INTERIORS, INC., ET AL AT SAND ISLAND, HONOLULU, OAHU, TAX MAP KEY 1-5-41:260

See page 6 for deferral.

ITEM F-13 RESCIND PREVIOUS ACTION FOR LAND EXCHANGE AND AUTHORIZE SALE OF LEASES AT PUBLIC AUCTION FOR TWO (2) RESIDENTIAL PROPERTIES AT KEKAHA GARDENS SUBDIVISION, TAX MAP KEY 1-2-12:17 AND 36

ACTION Unanimously approved as submitted. (Apaka/Arata)

ITEM F-14 SET ASIDE OF STATE LANDS TO DIVISION OF FORESTRY AND WILDLIFE FOR THE ADDITIONS TO THE MOLOAA AND HALELEA FOREST RESERVES, KAUAI, TAX MAP KEYS 5-6-02:1; 5-5-08:2; 5-1-02:3, 4 AND 6

Mr. Uchida requested that items F-14 and F-15 be taken up together as they as related items.

ACTION Motion was made by Mr. Apaka to approve items F-14 and F-15. Seconded by Mr. Arisumi, motion carried.

ITEM F-15 TERMINATION OF REVOCABLE PERMIT NO. S-2442 TO HAROLD Y. KOBAYASHI AT HANAIEI, KAUAI, TAX MAP KEY 5-5-08:2

See Item F-14 for action.

ITEM F-16 CANCELLED, UNCOLLECTIBLE ACCOUNTS TO BE DELETED FROM ACCOUNTS RECEIVABLE RECORDS

ACTION Unanimously approved as submitted. (Himeno/Apaka)

ITEM H-1 CDUA FOR A SINGLE FAMILY RESIDENCE AND REMOVAL OF AN EXISTING FIRE-DAMAGED SHED; HAENA, KAUAI; TMK: 5-9-2:48; APPLICANT: MR. TIM STAR (TO BE DISTRIBUTED AT MEETING)

Mr. Evans reminded the Board that this item was deferred from the last meeting so that staff could contact the Historic Preservation Office for more information on the archaeological survey. Staff did confer and worked with the Historic Preservation staff and have come up with a Condition No. 16 which is acceptable to that office. With this condition, there should be no adverse effect to significant historic sites.

ACTION Unanimously approved as submitted. (Apaka/Arata)

ITEM H-2 CDUA FOR FIVE AFTER-THE-FACT COMMERCIAL MOORINGS, PLUS TRANSITING BEACH, AS PART OF COMMERCIAL FISHING OPERATION; KEALAKEKUA BAY, SOUTH KONA, HAWAII; APPLICANT: HANA LIKE, INC. (MR. CHARLES LESLIE)

See page 3 for deferral.

ITEM H-3 CDUA FOR AN AFTER-THE-FACT COMMERCIAL MOORING; KEALAKEKUA BAY, SOUTH KONA, HAWAII; APPLICANT: MR. WILLIAM B. BLOK, III (TO BE DISTRIBUTED)
See page 3 for deferral.

ITEM H-4 CDUA FOR AN AFTER-THE-FACT COMMERCIAL MOORING; KEALAKEKUA BAY, SOUTH KONA, HAWAII; APPLICANT: HAWAIIAN CRUISES, LTD. (MR. JOHN R. PYLES) (TO BE DISTRIBUTED)
See page 3 for deferral.

ITEM H-5 REQUEST FOR APPROVAL OF OUT-OF-STATE TRAVEL TO ATTEND ACQUACULTURE CONFERENCE
ACTION Unanimously approved as submitted. (Arisumi/Apaka)

ITEM H-6 REQUEST FOR APPROVAL OF OUT-OF-STATE TRAVEL TO ATTEND PLANNING MEETING
ACTION Unanimously approved as submitted. (Himeno/Apaka)

ITEM H-7 ADDED OUT-OF-STATE TRAVEL REQUEST FOR LEROY TAIRA, AUDITOR, ADMINISTRATIVE SERVICES OFFICE
ACTION Unanimously approved as submitted. (Arisumi/Himeno)

ITEM J-1 REQUEST FOR A RIGHT-OF-ENTRY FOR THE INSTALLATION OF A WATER PIPELINE SITUATED AT THE HILO INTERNATIONAL AIRPORT, HAWAII (DEPARTMENT OF PUBLIC WORKS, COUNTY OF HAWAII)
ACTION Unanimously approved as submitted. (Arata/Himeno)

ITEM J-2 CONSENT TO ASSIGNMENT, LEASE O. DOT-A-81-14 (RESUBMITTAL), HONOLULU INTERNATIONAL AIRPORT, OAHU (PACIFIC AIR EXPRESS, INC.-INTER-ISLAND AIR, INC.)
ACTION Unanimously approved as submitted. (Arata/Himeno)

ITEM J-3 APPLICATION FOR ISSUANCE OF REVOCABLE 4693 AND 4695, AIRPORTS DIVISION
ACTION Unanimously approved as submitted. (Himeno/Apaka)

ITEM J-4 APPLICATION FOR ISSUANCE OF REVOCABLE PERMITS 4666, 4674 AND 4681, AIRPORTS DIVISION
See page 1 for action.

ITEM J-5 RENEWAL OF REVOCABLE PERMITS 4191, ETC., AIRPORTS DIVISION
See page 2 for action.

ITEM J-6 RENEWAL OF REVOCABLE PERMITS 4332, ETC., AIRPORTS DIVISION
See page 2 for action.

ITEM J-7 SALE OF A LEASE BY PUBLIC AUCTION, HARBORS DIVISION, PIER 34, HONOLULU HARBOR, OAHU
ACTION Unanimously approved as submitted. (Himeno/Apaka)

ITEM J-8 ISSUANCE OF CONSTRUCTION RIGHT-OF-ENTRY AND NEGOTIATED LEASE KAWAIHAE HARBOR, HAWAII (MATSON NAVIGATION COMPANY, INC.)
See page 2 for action.

ITEM J-9 AMENDMENT TO ISSUANCE OF LEASE BY DIRECT NEGOTIATION, FORT ARMSTRONG, HONOLULU HARBOR, OAHU (AMERICAN PRESIDENT LINES, LTD.)
See page 2 for action.

ITEM J-10 CONSTRUCTION RIGHT-OF-ENTRY AND DIRECT SALE OF LEASE OF EASEMENT, PORT ALLEN, KAUAI (CHEVRON U.S.A. INC.)
ACTION Unanimously approved as submitted. (Himeno/Arisumi)

ITEM J-11 CONTINUANCE OF REVOCABLE PERMITS H-88-1484, ETC., HARBORS DIVISION

ACTION Unanimously approved as submitted. (Himeno/Arisumi)

ITEM J-12 DIRECT SALE OF ABANDONED ROADWAY, HAWAII (TAMEKICHI ISHIMARU, EDMUND HEDEMANN, MERRILL CARLSMITH, CURTIS CARLSMITH AND ROBERT W. CARLSMITH)

ACTION Unanimously approved as submitted. (Arata/Apaka)

ITEM J-13 RESUBMITTAL OF GIFT, PACKAGED FOODS, FLORIST, JEWELRY AND SUNDRIES CONCESSION, KAHULUI AIRPORT, MAUI

ACTION Unanimously approved as submitted. (Arisumi/Himeno)

ITEM J-14 CONSENT TO ASSIGNMENT OF LEASE NO. DOT-A-80-6, HONOLULU INTERNATIONAL AIRPORT, SOUTH RAMP, OAHU (HEMMETER AVIATION, A DIVISION OF HEMMETER INVESTMENT COMPANY - HEMMETER AVIATION, INC.)

See page 1 for action.

ITEM J-15 CONSENT TO ASSIGNMENT OF LEASE NO. DOT-A-82-5, HONOLULU INTERNATIONAL AIRPORT, SOUTH RAMP, OAHU (HEMMETER AVIATION, A DIVISION OF HEMMETER INVESTMENT COMPANY - HEMMETER AVIATION, INC.)

See page 1 for action.

ITEM J-16 APPLICATION FOR ISSUANCE OF REVOCABLE PERMITS 4689 AND 4586, AIRPORTS DIVISION

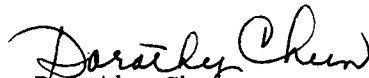
ACTION Unanimously approved as submitted. (Himeno/Arisumi)

ITEM Z-1 RESULTS OF JULY 26, 1990 PUBLIC AUCTION, ISLAND OF KAUAI

Report accepted by the Board.

ADJOURNMENT: There being no further business, the meeting was adjourned at 12:20 p.m.

Respectfully submitted,


Dorothy Chu
Secretary

APPROVED FOR SUBMITTAL


WILLIAM W. PATY, Chairperson